

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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EDWARD MITCHELL GUERRERO,

Petitioner,

Case No. 1:05-CV-285

Hon. Richard Alan Enslen

v.

CARMEN D. PALMER, Warden of  
Riverside Correctional Facility,

Respondent.

**ORDER**

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This matter is before the Court on Petitioner Edward Mitchell Guerrero's Motion for Reconsideration. On July 29, 2005, United States Magistrate Judge Ellen S. Carmody issued an order denying Petitioner's motion to appoint counsel. Petitioner filed a letter that the Court will construe as a Motion for Reconsideration of that order. *Cf. W.D. MICH. LCIVR 7.4 with FED. R. CIV. P. 59 and 60.*

“[M]otions for reconsideration that merely present the same issues ruled upon by the Court shall not be granted.” W.D. MICH. LCIVR 7.4(a). Judge Carmody noted that it is exceedingly rare to appoint counsel in a civil matter. *Lavado v. Keohane*, 992 F.2d 601, 604-05 (6th Cir. 1993). Judge Carmody further noted that the proper factors to review Petitioner's request were: (1) whether the action presents a colorable claim for relief; (2) the litigant's ability to investigate crucial facts; (3) whether the nature of the evidence indicates that the truth will more likely be revealed when both sides are represented by counsel; (4) the ability of the litigant to present his case; and (5) the complexity of the legal issues presented. *McKeeves v. Israel*, 689 F.2d 1315, 1320-21 (7th Cir. 1982); *Lavado*, 992 F.2d at 605-06. Applying these factors to Petitioner's request, Judge Carmody

found that the exceptional circumstances warranting appointment of counsel were not present in this case.

Petitioner's Motion for Reconsideration simply reiterates the aforementioned factors, but predictably comes to a different conclusion. Petitioner has not demonstrated that Judge Carmody's order suffers from a palpable defect, and furthermore, he has failed to show that a different result is manifest . W.D. MICH. LCIVR 7.4(a).

**THEREFORE, IT IS HEREBY ORDERED** that Petitioner Edward Mitchell Guerrero's Motion for Reconsideration (Dkt. No. 12) is **DENIED**.

DATED in Kalamazoo, MI:  
October 12, 2005

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE